

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No: 10/632,284 Confirmation No: 5081

In Re Application of: Tour *et al.*

Filing Date: August 1, 2003

Art Unit: 1712

Examiner: Robert E. Sellers

Docket No.: 11321/P023WUD3

Customer No.: 61,060

Title: PROCESS FOR MAKING POLYMERS COMPRISING DERIVATIZED CARBON NANOTUBES AND COMPOSITIONS THEREOF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AFFIDAVIT OF JAMES M. TOUR UNDER 37 C.F.R. §1.132

BEFORE ME, the undersigned authority on this day personally appeared James M. Tour who made the following written verification:

1. My name is James M. Tour. I am over the age of eighteen (18) years and am of sound mind, have never been convicted of a felony, and am competent to testify herein. The matters set forth herein are within my personal knowledge and are true and correct.

2. In an Office Action mailed January 17, 2007, the Examiner rejected claims 97, 98 and 100 of the above referenced application under 35 U.S.C. §102(a), as being anticipated by Bahr *et al.*, *Journal of the American Chemical Society*, 2001, 123, 6536-6542, having web publication date of June 14, 2001. The same citation has been used to support a rejection of claims 97, 98, 100, 104-109, 134, and 135 in combination with Smalley *et al.* U.S. Patent No. 7,105,596 under 35 U.S.C. §103(a) of the Patent Act.

3. I am one of three named inventors in the present application, which includes James M. Tour, Jeffrey L. Bahr, and Jiping Yang, (collectively the "inventive entity") and I am also a co-author of the Bahr *et al.* literature citation. Additionally, I am the lead scientific investigator in both the present application and the Bahr *et al.* literature citation.

4. The portion of Bahr *et al.* relied upon by the Examiner is solely the inventive entity's own work. Specifically the Examiner states, that Bahr *et al.* teaches incorporation of diazonium derivitized carbon nanotubes into polymer composite materials. The carbon nanotube derivitization process and incorporation into polymer composite materials is solely the inventive entity's own work. The remaining authors in Bahr *et al.* have assisted in reduction to practice of the invention without contribution to conception and are thus, not inventive entities.

5. Richard E. Smalley is a deceased co-author on Bahr *et al.* and is, therefore unable to provide an affidavit.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Attorney Docket No. 11321-P022WUD3

PATENT


James M. TourState of Texas

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County of Harris

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On this, the 3rd day of July 2007, before me, a Notary Public in and for the State and County aforesaid, personally appeared before me James M. Tour, well known and known by me to be the person of the above name who signed and sealed the foregoing instrument and acknowledged the same to be his own free act and deed.


Hazel Cole

NOTARY PUBLIC

My Commission Expires: 6-14-2009

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